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10 ORECK CORPORATION

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13

14 CLAUDIA FABIANI, an individual on
15 behalf of herself and all others similarly
situated,

16 Plaintiff,

17 v.

18 ORECK CORPORATION,

19 Defendant.
20

Case No.: C 05 02140 JSW

**~~[PROPOSED]~~ ORDER CERTIFYING
SETTLEMENT CLASS, APPROVING
SETTLEMENT ON A PRELIMINARY
BASIS, AND APPROVING FORM AND
METHOD OF MAILING NOTICE TO
CLASS MEMBERS**

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22 Upon consideration of the joint motion of the parties to approve a settlement class, approve
23 the parties' settlement on a preliminary basis, and approve the form of notice and method of
24 mailing same to the absent class members, the Court enters the following orders:

25 1. A class (the "Class") is provisionally certified for settlement purposes only,
26 comprised of all California residents who, between May 15, 2004 and May 15, 2005, were mailed
27 the allegedly offensive letter described in the plaintiff's complaint. The Court understands that
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each such person can be identified from records in the possession of Oreck Corporation and that Oreck has a reasonably current mailing address for each such person.

2. The Court appoints Claudia Fabiani as representative of the class.

3. The Court appoints Irving L. Berg, Esq., as counsel to Fabiani and the Class (“Class Counsel”).

4. The proposed settlement, as set forth in the Memorandum of Settlement and as described in the parties’ joint motion, is preliminarily approved as fair, reasonable, and adequate, subject to a hearing for final approval.

5. A hearing (“Final Approval Hearing”) is hereby set for ~~January~~ ^{May 12}, 2006, at 9 a.m., in Courtroom 2, United States Courthouse, 450 Golden Gate Avenue, San Francisco, to determine whether the proposed settlement is fair, reasonable, and adequate and should be finally approved.

6. The Notice to Class Members of Proposed Settlement shall be mailed to each of the 195 class members that have been identified by Oreck Corporation at the most current address that Oreck possesses for each such class member. The Court finds that mailing of individual Notices to each class member is the best notice practicable under the circumstances. ~~On or prior to the date of the Final Approval Hearing,~~ ^{By no later than March 10, 2006} Oreck Corporation shall file proof that it mailed the Notice to each of the 195 class members and shall provide notification to the Court of any mailings that were returned as “undeliverable.” The Notice to Class Members shall be mailed by no later than February 17, 2006.

7. Any person who wishes to be excluded from the Class must do so as provided in the Notice at least twenty-one (21) days prior to the date of the Final Approval Hearing. Any person who does not timely request exclusion as provided in the Notice shall be included in the Class and bound by any Final Judgment and Order entered in this Action by the Court.

8. Any Class Member who objects to the Settlement, the class action determination (including the determination of adequacy of representation), or who otherwise wishes to be heard, may appear in person or by his or her attorney at the Final Approval Hearing and present any evidence or argument that may be proper and relevant; *provided however*, that no person other than Plaintiff, Class Counsel, and counsel for Oreck Corporation shall be heard, and no papers,

briefs, pleadings or other documents submitted by any such person shall be received and considered by the Court (unless the Court in its discretion shall otherwise direct, upon application of such person and for good cause shown), unless no later than twenty one (21) days prior to the Final Approval Hearing, such person files with the Clerk of Court (a) his or her written notice of intention to appear, and (b) his or her written objections to any matter scheduled for hearing before the Court. Such written notices shall also be served at the same time upon the following counsel by United States mail, first class, postage prepaid:

Irving L. Berg, Esq.
The Berg Law Group
433 Town Center, No. 493
Corte Madera, California 94925
Attorney for Plaintiff and Class

Frederick W. Bradley, Esq.
Oreck, Bradley, Crighton, Adams & Chase
1100 Poydras Street, Suite 1480
New Orleans, Louisiana 70163
Attorneys for Oreck Corporation

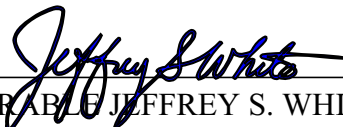
9. Any person who fails to object in the manner prescribed above shall be deemed to have waived such objection and shall be forever barred from raising such objection in the Action or any other action or proceeding.

10. The parties will file papers in support of the proposed Settlement with the Court ¹⁴ ~~seven (7)~~ days prior to the Final Approval Hearing.

11. This Order shall not be construed or deemed to be a finding of this Court or evidence of a presumption, implication, concession, or admission by Oreck Corporation concerning any liability, fault, or wrongdoing, nor shall it be a concession of the appropriateness of class certification for any purposes other than settlement. If the Agreement of Settlement is terminated pursuant to its terms, or if the Settlement is not approved or consummated for any reason whatsoever, the Settlement and all proceedings had in connection therewith shall be without prejudice to the *status quo ante* rights of the parties to this action. In that event, the certification shall be disallowed, all of the rights of the parties shall be restored, including, but not

1 limited to Oreck's right to oppose certification of a class and/or the merits of the Plaintiff's claims
2 on any grounds, legal or equitable.

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4 Dated: January 25, 2006


THE HONORABLE JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE